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C O N F I D E N T I A L SECTION 01 OF 02 KUALA LUMPUR 000704

SIPDIS

FOR EAP/MTS AND DRL FOR JANE KIM

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TAGS: [PHUM](#) [PGOV](#) [MY](#)

SUBJECT: DOWNGRADE MALAYSIA'S HUMAN RIGHTS COMMISSION?

Classified By: Classified By: Acting Political Section Chief William G.
Gray for reasons 1.4 (b and d).

SUMMARY

1. (C) Malaysia's Human Rights Commission (SUHAKAM) faces potential downgrading by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) for non-compliance with the Paris Principles. If downgraded, SUHAKAM will be banned from attending the United Nations Human Rights Council Session and stripped of its full membership in the Asia Pacific Forum, the leading regional human rights organization in the Asia Pacific. The Malaysian government responded by questioning the validity of ICC's accreditation review but some local NGOs welcome the move as a wake-up call for the government to make SUHAKAM more independent and effective. Most observers believe, however, that the government is unlikely to make substantive changes to SUHAKAM, however. Post continues to engage the government and promote proactive human rights monitoring with SUHAKAM. End Summary.

SUHAKAM faces downgrade by ICC

2. (U) During an accreditation review July 25, the ICC, whose secretariat is the United Nations' Office of the High Commissioner for Human Rights, found Malaysia's Human Rights Commission (SUHAKAM) did not comply with the Paris Principles. The Paris Principles define the international standards for an independent and effective national human rights institution. The announcement occurred as SUHAKAM prepared to host the 13th Asia Pacific Forum (APF) of National Human Rights Institutions (NHRI) from July 28 - 31.

ICC Recommendations to SUHAKAM

3. (U) The ICC provided SUHAKAM with recommendations on how to comply with the Paris Principles and gave the organization one year to meet the standards. ICC recommended establishing a clear and transparent appointment and dismissal process for commissioners and increasing commissioners' tenures from the current two years. Another deficiency noted was the lack of genuine "pluralism" in the composition of SUHAKAM's commissioners. The ICC also expects SUHAKAM to increase engagement with other human rights bodies and the UN Human Rights Council.

The Downgrade's Impact

4. (U) SUHAKAM's failure to comply with the ICC's recommendations will result in the ICC downgrading SUHAKAM from its current "A" status to "B." If downgraded, SUHAKAM loses its right to participate in the regular sessions of the United Nations Human Rights Council, is stripped of its full

membership in the APF of NHRIs and relegated to a candidate or associate member without voting rights in the APF's decision-making body, the Forum Council.

SUHAKAM and Local NGOs react

¶15. (U) SUHAKAM Chairman Abu Talib dismissed the ICC's view and stated the committee seems to be developing "new rules of interpretation" of the Paris Principles. He further lamented the ICC was just "relying on one Malaysian NGO's observation" in initiating the accreditation review and stressed that the Commission considers itself fully compliant with the Principles. Other SUHAKAM Commissioners followed Abu Talib's lead, but acknowledged that the nine-year-old SUHAKAM Act, which established SUHAKAM, should be amended to reflect current circumstances and provide the Commission more bite, especially for enforcing its recommendations. On July 29, Deputy Prime Minister Najib stated that any change in the SUHAKAM act giving the organization greater independence and power needed "to be studied carefully."

¶16. (SBU) In an immediate reaction to the ICC's review, 44 NGOs including Education and Research Association for Consumers Malaysia (ERA Consumer), the Malaysian Peoples Voice (SUARAM) (the two NGO's providing the ICC information for its report on SUHAKAM), and the Malaysian Bar Council released a joint statement urging the Malaysian government to adopt the ICC's recommendations and strengthen SUHAKAM. N. Marimuthu, President of ERA Consumer, told us the ICC's review was a "wake-up call" for SUHAKAM and the government and will embarrass the Government if SUHAKAM's status is

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downgraded. The NGOs found an ally when de facto Law Minister Zaid Ibrahim, one of the few voices for reform in the cabinet, advised SUHAKAM to "develop a spine." Presenting a paper at the NHRI on July 29, the Minister said SUHAKAM must be proactive, more aggressive, take a vigorous stand on issues, and not hide behind the SUHAKAM Act. (Note SUHAKAM's Chairman sometime uses the limiting statutes of the act to justify not/not investigating alleged human rights violations in high profile cases.) The Minister also supported the ICC's recommendations, adding that the government can no longer continue to be in denial (about its responsibility to safeguard human rights).

Comments

¶17. (C) While the ICC's announcement of SUHAKAM's possible downgrade set off alarms within the Malaysian government, the substantial reforms required to strengthen SUHAKAM's independence or broaden its jurisdiction are unlikely. When first established, the government purposely undermined SUHAKAM's ability to investigate abuses by inserting legislated limitations. For example, SUHAKAM cannot legally investigate alleged abuses if a police report is filed. Post continues to engage the government on human rights and encourage proactive human rights monitoring within SUHAKAM.

KEITH